

HOUSE SUBSTITUTE
FOR
SENATE BILL NO. 932
AN ACT

2 To repeal sections 286.020, 287.020, 287.067,
3 287.120, 287.128, 287.140, 287.240, 287.390,
4 287.510, 287.560, 287.610, 287.800, 287.957,
5 and 288.060, RSMo, and to enact in lieu
6 thereof eighteen new sections relating to
7 employment, with penalty provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
9 AS FOLLOWS:

10 Section A. Sections 286.020, 287.020, 287.067, 287.120,
11 287.128, 287.140, 287.240, 287.390, 287.510, 287.560, 287.610,
12 287.800, 287.957, and 288.060, RSMo, are repealed and eighteen
13 new sections enacted in lieu thereof, to be known as sections
14 286.020, 287.020, 287.067, 287.120, 287.128, 287.131, 287.140,
15 287.225, 287.240, 287.390, 287.510, 287.560, 287.610, 287.800,
16 287.803, 287.957, 288.386, and 288.060, to read as follows:

17 286.020. The term of office of each member of the
18 commission shall be six years except that when first constituted
19 one member shall be appointed for two years, one for four years
20 and one for six years, and thereafter all vacancies shall be
21 filled as they occur. The terms of office of the first members
22 of the commission shall begin on the date of their appointment
23 which shall be within thirty days after the effective date of
24 this chapter. Any member appointed to fill a vacancy occurring

1 prior to the expiration of the term for which the member's
2 predecessor was appointed, shall be appointed by the governor, by
3 and with the advice and consent of the senate, for the remainder
4 of such term. Every commission member appointed to serve, either
5 as a permanent, an acting, a temporary, an interim, or as a
6 legislative recess appointment, shall appear for confirmation
7 before the senate within thirty days after the senate next
8 convenes for regular session. Any member appointed or serving
9 the labor and industrial relations commission without senate
10 confirmation after said time period shall immediately resign from
11 the commission, shall not have authority to act, and shall not be
12 reappointed to the same office or position in accordance with
13 section 51 of article IV of the Missouri Constitution. The
14 governor may remove any member of the commission, after notice
15 and hearing, for gross inefficiency, mental or physical
16 incapacity, neglect of duties, malfeasance, misfeasance or
17 nonfeasance in office, incompetence or for any offense involving
18 moral turpitude or oppression in office.

19 287.020. 1. The word "employee" as used in this chapter
20 shall be construed to mean every person in the service of any
21 employer, as defined in this chapter, under any contract of hire,
22 express or implied, oral or written, or under any appointment or
23 election, including executive officers of corporations. Any
24 reference to any employee who has been injured shall, when the
25 employee is dead, also include his dependents, and other persons
26 to whom compensation may be payable. The word "employee" shall
27 also include all minors who work for an employer, whether or not
28 such minors are employed in violation of law, and all such minors

1 are hereby made of full age for all purposes under, in connection
2 with, or arising out of this chapter. The word "employee" shall
3 not include an individual who is the owner and operator of a
4 motor vehicle which is leased or contracted with a driver to a
5 for-hire common or contract motor vehicle carrier operating
6 within a commercial zone as defined in section 390.020 or
7 390.041, RSMo, or operating under a certificate issued by the
8 motor carrier and railroad safety division of the department of
9 economic development or by the interstate commerce commission.

10 2. (1) The word "accident" as used in this chapter shall,
11 unless a different meaning is clearly indicated by the context,
12 [be construed to] mean an unexpected or unforeseen identifiable
13 event or series of events happening suddenly and violently, with
14 or without human fault, and producing at the time objective
15 symptoms of an injury immediately resulting from the specific
16 event or series of events. For purposes of this chapter, any
17 event or series of events shall be identifiable by their time and
18 place of occurrence. An injury is compensable if it is clearly
19 work related. An injury is clearly work related if work was [a
20 substantial] the prevailing factor in the cause of the resulting
21 medical condition or disability. An injury is not compensable
22 merely because work was a triggering or precipitating factor.

23 (2) "Prevailing factor" shall mean the accident is the
24 primary factor in relation to any other factors, such that when
25 compared to the other factors individually and not collectively,
26 the accident has a greater effect than any of the other factors
27 on the resulting medical condition or disability.

28 3. (1) In this chapter the term "injury" is hereby defined

1 to be an injury which has arisen out of and in the course of
2 employment. The injury must be incidental to and not independent
3 of the relation of employer and employee. An injury by accident
4 shall be compensable only if the accident was the prevailing
5 factor in causing the resulting medical condition. Ordinary,
6 gradual deterioration or progressive degeneration of the body
7 caused by aging shall not be compensable, except where the
8 deterioration or degeneration follows as an incident of
9 employment.

10 (2) An injury shall be deemed to arise out of and in the
11 course of the employment only if all of the following criteria
12 are met:

13 (a) It is reasonably apparent, upon consideration of all
14 the circumstances, that the [employment] accident is [a
15 substantial] the prevailing factor in causing the injury; and

16 (b) [It can be seen to have followed as a natural incident
17 of the work; and

18 (c) It can be fairly traced to the employment as a
19 proximate cause; and

20 (d)] It does not come from a hazard or risk unrelated to
21 the employment to which workers would have been equally exposed
22 outside of and unrelated to the employment in normal
23 nonemployment life; and

24 (c) The injury is demonstrated and certified by a physician
25 using medical evidence based only on objective relevant medical
26 findings; and

27 (d) The circumstances of the claimants employment created
28 an increased risk or hazard which resulted in the injury.

1 (3) The terms "injury" and "personal injuries" shall mean
2 violence to the physical structure of the body and to the
3 personal property which is used to make up the physical structure
4 of the body, such as artificial dentures, artificial limbs, glass
5 eyes, eyeglasses, and other prostheses which are placed in or on
6 the body to replace the physical structure and such disease or
7 infection as naturally results therefrom. These terms shall in
8 no case except as specifically provided in this chapter be
9 construed to include occupational disease in any form, nor shall
10 they be construed to include any contagious or infectious disease
11 contracted during the course of the employment, nor shall they
12 include death due to natural causes occurring while the worker is
13 at work.

14 4. Missouri does not apply or follow the positional risk
15 analysis, positional risk doctrine, or positional risk rule. The
16 positional risk doctrine is not to be followed under this chapter
17 and any holding or statement of a judicial opinion or award which
18 recognizes and purportedly follows this rule is hereby abrogated.

19 5. This chapter shall not apply to personal health
20 conditions of an employee which manifest themselves in the
21 employment in which an accident is not the prevailing factor in
22 the resulting need for medical treatment.

23 6. A cardiovascular, pulmonary, respiratory, or other
24 disease, or cerebrovascular accident or myocardial infarction
25 suffered by a worker is an injury only if the accident is the
26 prevailing factor in causing the resulting medical condition.

27 7. The employee shall not be entitled to recover for the
28 aggravation of a preexisting condition, except to the extent that

1 the work-related injury causes increased permanent disability.
2 Any award of compensation shall be reduced by the amount of
3 permanent partial disability determined to be a preexisting
4 disease or condition sufficient to cause or prolong the
5 disability or need for treatment. The resultant condition is
6 compensable only to the extent that the compensable injury is and
7 remains the prevailing cause of the disability or need for
8 treatment.

9 (1) Any reduction or determination shall be made without
10 consideration of whether the preexisting condition would be
11 disabling without the compensable accident.

12 (2) The degree of permanent impairment or disability
13 attributable to the accident or injury shall be compensated in
14 accordance with this section, apportioning out the preexisting
15 condition based on the anatomical impairment rating attributable
16 to the preexisting condition.

17 (3) Medical benefits shall be paid apportioning out the
18 percentage of the need for such care attributable to the
19 preexisting condition.

20 8. Pain or other subjective complaints alone, in the
21 absence of objective relevant medical findings, are not
22 compensable.

23 [4.] 9. "Death" when mentioned as a basis for the right to
24 compensation means only death resulting from such violence and
25 its resultant effects occurring within three hundred weeks after
26 the accident; except that in cases of occupational disease, the
27 limitation of three hundred weeks shall not be applicable.

28 [5.] 10. Without otherwise affecting either the meaning or

1 interpretation of the abridged clause, "personal injuries arising
2 out of and in the course of such employment", it is hereby
3 declared not to cover workers except while engaged in or about
4 the premises where their duties are being performed, or where
5 their services require their presence as a part of such service.
6 Injuries and accidents that occur while traveling to or from work
7 in company-owned or subsidized automobiles are not compensable.
8 The "extension of premises" doctrine is overruled to the extent
9 it extends liability for accidents that occur on property not
10 owned or controlled by any employer.

11 [6.] 11. A person who is employed by the same employer for
12 more than five and one-half consecutive work days shall for the
13 purpose of this chapter be considered an "employee".

14 [7.] 12. The term "total disability" as used in this
15 chapter shall mean inability to return to any employment and not
16 merely mean inability to return to the employment in which the
17 employee was engaged at the time of the accident.

18 [8.] 13. As used in this chapter and all acts amendatory
19 thereof, the term "commission" shall hereafter be construed as
20 meaning and referring exclusively to the labor and industrial
21 relations commission of Missouri, and the term "director" shall
22 hereafter be construed as meaning the director of the department
23 of insurance of the state of Missouri or such agency of
24 government as shall exercise the powers and duties now conferred
25 and imposed upon the department of insurance of the state of
26 Missouri.

27 [9.] 14. The term "division" as used in this chapter means
28 the division of workers' compensation of the department of labor

1 and industrial relations of the state of Missouri.

2 [10.] 15. For the purposes of this chapter, the term
3 "minor" means a person who has not attained the age of eighteen
4 years; except that, for the purpose of computing the compensation
5 provided for in this chapter, the provisions of section 287.250
6 shall control.

7 16. In applying provisions of this chapter, it is the
8 intent of the legislature to reject and abrogate earlier case law
9 interpretations of cases "arising out of" and "in the course of
10 the employment", to include, but not be limited to, holdings in
11 cases such as *Bennett v. Columbia Health Care and Rehabilitation*,
12 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl v. Bristol Care, Inc.*,
13 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d 512
14 (Mo.banc 1999).

15 17. "Objective relevant medical findings" in support of
16 medical evidence are verifiable indications of injury or disease
17 that may include, but are not limited to, range of motion,
18 atrophy, muscle strength, and palpable muscle spasm. Objective
19 relevant medical findings do not include physical findings or
20 subjective responses to physical examinations that are not
21 reproducible, measurable, or observable by diagnostic testing.
22 Objective relevant medical findings are those findings which
23 cannot solely come under the voluntary control of the patient.
24 Medical opinions addressing compensability and permanent
25 impairment must be stated within a reasonable degree of medical
26 certainty.

27 18. "Specificity" means information on the claim for
28 benefits sufficient to put the employer or carrier on notice of

1 the exact statutory classification and outstanding time period of
2 benefits being requested and includes a detailed explanation of
3 any benefits received that should be increased, decreased,
4 changed, or otherwise modified. If the claim is for medical
5 benefits, the information shall include specific details as to
6 why such benefits are being requested, why such benefits are
7 medically necessary, and why current treatment, if any, is not
8 sufficient. Any claim requesting alternate or other medical
9 care, including, but not limited to, claims requesting
10 psychiatric or psychological treatment, must specifically
11 identify the physician, as defined in subdivision (8) of section
12 287.120, that is recommending such treatment. A copy of a report
13 from such physician making the recommendation for alternate or
14 other medical care shall also be attached to the claim. An
15 administrative law judge shall not order such treatment if a
16 physician is not recommending such treatment.

17 19. As used in this chapter the term "amount in dispute"
18 means either the dollar amount claimed by the employee that is in
19 excess of the dollar amount offered prior to attorney involvement
20 by the employer, or in the event no amount is offered and
21 tendered by the employer and accepted by the employee, the dollar
22 amount that is in excess of the award granted by the court.

23 287.067. 1. In this chapter the term "occupational
24 disease" is hereby defined to mean, unless a different meaning is
25 clearly indicated by the context, an identifiable disease arising
26 with or without human fault out of and in the course of the
27 employment. Ordinary diseases of life to which the general
28 public is exposed outside of the employment shall not be

1 compensable, except where the diseases follow as an incident of
2 an occupational disease as defined in this section. The disease
3 need not to have been foreseen or expected but after its
4 contraction it must appear to have had its origin in a risk
5 connected with the employment and to have flowed from that source
6 as a rational consequence. "Occupational disease" means only a
7 disease for which there are epidemiological studies showing that
8 exposure to the specific substance involved, at the levels to
9 which the employee was exposed, may cause the precise disease
10 sustained by the employee.

11 2. An occupational disease is compensable only if [it is
12 clearly work related and meets the requirements of an injury
13 which is compensable as provided in subsections 2 and 3 of
14 section 287.020. An occupational disease is not compensable
15 merely because work was a triggering or precipitating factor] the
16 occupational exposure was the prevailing factor in causing the
17 resulting medical condition.

18 (1) Ordinary, gradual deterioration, or progressive
19 degeneration of the body caused by aging shall not be
20 compensable.

21 (2) "Prevailing factor" shall mean the occupational
22 exposure is the primary factor in relation to any other factors,
23 such that when compared to the other factors individually and not
24 collectively, the accident has a greater effect than any of the
25 other factors on the resulting medical condition or disability.

26 (3) The occupational exposure must be demonstrated and
27 certified by a physician only using medical evidence based on
28 objective relevant medical findings.

1 3. An occupational disease or occupational exposure injury
2 shall be deemed to rise out of and in the course of the
3 employment only if all of the following increased risks are met:

4 (1) It is reasonably apparent upon consideration of all the
5 circumstances that the occupational disease is the prevailing
6 factor in causing the injury; and

7 (2) It does not come from a hazard or risk unrelated to the
8 employment to which workers would have been equally exposed
9 outside of and unrelated to the employment in normal
10 nonemployment life; and

11 (3) The injury is demonstrated and certified by a physician
12 only using medical evidence based on objective relevant medical
13 findings; and

14 (4) If the circumstances of the claimants employment led to
15 an increase in the risk or hazard which resulted in the injury.

16 4. Missouri does not apply or follow the positional risk
17 analysis, positional risk doctrine, or positional risk rule. The
18 positional risk doctrine is not to be followed under this chapter
19 and any holding or statement of a judicial opinion or award which
20 recognizes and purportedly follows this rule is hereby abrogated.

21 5. "Loss of hearing due to industrial noise" is recognized
22 as an occupational disease for purposes of this chapter and is
23 hereby defined to be a loss of hearing in one or both ears due to
24 prolonged exposure to harmful noise in employment. "Harmful
25 noise" means sound capable of producing occupational deafness.

26 [4.] 6. "Radiation disability" is recognized as an
27 occupational disease for purposes of this chapter and is hereby
28 defined to be that disability due to radioactive properties or

1 substances or to Roentgen rays (X rays) or exposure to ionizing
2 radiation caused by any process involving the use of or direct
3 contact with radium or radioactive properties or substances or
4 the use of or direct exposure to Roentgen rays (X rays) or
5 ionizing radiation.

6 [5.] 7. Disease of the lungs or respiratory tract,
7 hypotension, hypertension, or disease of the heart or
8 cardiovascular system, including carcinoma, may be recognized as
9 occupational diseases for the purposes of this chapter and are
10 defined to be disability due to exposure to smoke, gases,
11 carcinogens, inadequate oxygen, or psychological stress of
12 firefighters of a paid fire department and peace officers
13 certified pursuant to chapter 590, RSMo, if a direct causal
14 relationship is established.

15 [6.] 8. Any employee who is exposed to and contracts any
16 contagious or communicable disease arising out of and in the
17 course of his or her employment shall be eligible for benefits
18 under this chapter as an occupational disease.

19 [7.] 9. With regard to occupational disease due to
20 repetitive motion, if the exposure to the repetitive motion which
21 is found to be the cause of the injury is for a period of less
22 than three months and the evidence demonstrates that the exposure
23 to the repetitive motion with a prior employer was the
24 [substantial contributing] prevailing factor [to] in causing the
25 injury, the prior employer shall be liable for such occupational
26 disease.

27 287.120. 1. Every employer subject to the provisions of
28 this chapter shall be liable, irrespective of negligence, to

1 furnish compensation [under the provisions of] pursuant to this
2 chapter for personal injury or death of the employee by accident
3 arising out of and in the course of [his] the employee's
4 employment, and shall be released from all other liability
5 therefor whatsoever, whether to the employee or any other person.
6 The term "accident" as used in this section shall include, but
7 not be limited to, injury or death of the employee caused by the
8 unprovoked violence or assault against the employee by any
9 person.

10 2. The rights and remedies herein granted to an employee
11 shall exclude all other rights and remedies of the employee, his
12 wife, her husband, parents, personal representatives, dependents,
13 heirs or next kin, at common law or otherwise, on account of such
14 accidental injury or death, except such rights and remedies as
15 are not provided for by this chapter.

16 3. No compensation shall be allowed [under] pursuant to
17 this chapter for the injury or death due to the employee's
18 intentional self-inflicted injury, but the burden of proof of
19 intentional self-inflicted injury shall be on the employer or the
20 person contesting the claim for allowance. Compensation is not
21 allowed for an injury or death due to the employee's willful
22 attempt to injure another, or intentionally engaging in any
23 criminal act for the purpose of securing workers' compensation
24 benefits.

25 4. Where the injury is caused by the failure of the
26 employer to comply with any statute in this state or any lawful
27 order of the division or the commission, the compensation and
28 death benefit provided [for under] pursuant to this chapter shall

1 be increased fifteen percent.

2 5. Where the injury is caused by the willful failure of the
3 employee to use safety devices where provided by the employer, or
4 from the employee's failure to obey any reasonable rule adopted
5 by the employer for the safety of employees, which rule has been
6 kept posted in a conspicuous place on the employer's premises,
7 the compensation and death benefit provided for herein shall be
8 reduced fifteen percent; provided, that it is shown that the
9 employee had actual knowledge of the rule so adopted by the
10 employer; and provided, further, that the employer had, prior to
11 the injury, made a diligent effort to cause his or her employees
12 to use the safety device or devices and to obey or follow the
13 rule so adopted for the safety of the employees.

14 6. (1) Where the employee fails to obey any rule or policy
15 adopted by the employer relating to the use of alcohol or
16 nonprescribed controlled drugs in the workplace, which rule or
17 policy has been kept posted in a conspicuous place on the
18 employer's premises, the compensation and death benefit provided
19 for herein shall be [reduced fifteen percent] deemed void if the
20 injury was sustained in conjunction with the use of alcohol or
21 nonprescribed controlled drugs; provided, that it is shown that
22 the employee had actual knowledge of the rules or policy so
23 adopted by the employer and, provided further that the employer
24 had, prior to the injury, made a diligent effort to inform the
25 employee of the requirement to obey any reasonable rule or policy
26 adopted by the employer.

27 (2) If, however, the use of alcohol or nonprescribed
28 controlled drugs in violation of the employer's rule or policy

1 which is posted and publicized as set forth in subdivision (1) is
2 the proximate cause of the injury, then the benefits or
3 compensation otherwise payable [under] pursuant to this chapter
4 for death or disability shall be forfeited. The forfeiture of
5 benefits or compensation shall not apply when:

6 (a) The employer has actual knowledge of the employee's use
7 of the alcohol or nonprescribed controlled drugs and in the face
8 thereof fails to take any recuperative or disciplinary action; or

9 (b) As part of the employee's employment, he or she is
10 authorized or ordered by the employer to use such alcohol or
11 nonprescribed controlled drugs.

12 (3) The voluntary use of alcohol resulting in a blood
13 alcohol content equal to or greater than the amount established
14 in section 577.012, RSMo, shall be presumed to mean the voluntary
15 use of alcohol under such circumstances is the proximate cause of
16 the injury. This presumption may be rebutted with a showing by
17 the employee by clear and convincing evidence that alcohol was
18 not the proximate cause of the injury.

19 7. Where the employee's participation in a voluntary
20 recreational activity or program is the proximate cause of the
21 injury, benefits or compensation otherwise payable [under]
22 pursuant to this chapter for death or disability shall be
23 forfeited regardless that the employer may have promoted,
24 sponsored or supported the recreational activity or program,
25 expressly or impliedly, in whole or in part. The forfeiture of
26 benefits or compensation shall not apply when:

27 (a) The employee was directly ordered by the employer to
28 participate in such recreational activity or program;

1 (b) The employee was paid wages or travel expenses while
2 participating in such recreational activity or program; or

3 (c) The injury from such recreational activity or program
4 occurs on the employer's premises due to an unsafe condition and
5 the employer had actual knowledge of the employee's participation
6 in the recreational activity or program and of the unsafe
7 condition of the premises and failed to either curtail the
8 recreational activity or program or cure the unsafe condition.

9 8. Mental injury resulting from work related stress does
10 not arise out of and in the course of the employment, unless it
11 is demonstrated that the stress is work related and was
12 extraordinary and unusual. The amount of work stress shall be
13 measured by objective standards and actual events.

14 9. A mental injury is not considered to arise out of and in
15 the course of the employment if it resulted from any disciplinary
16 action, work evaluation, job transfer, layoff, demotion,
17 termination or any similar action taken in good faith by the
18 employer.

19 10. The ability of a firefighter to receive benefits for
20 psychological stress [under] pursuant to section 287.067 shall
21 not be diminished by the provisions of subsections 8 and 9 of
22 this section.

23 11. If the employee unjustifiably refuses, as determined by
24 an administrative law judge, to submit to a reliable, scientific
25 test to determine the presence of alcohol, marijuana, or a
26 controlled substance in an employee's blood, urine, breath, or
27 other bodily substance, it shall be inferred that the accident
28 and injury or death were proximately caused by intoxication by

1 alcohol or being under the influence of marijuana or a controlled
2 substance.

3 287.128. 1. It shall be unlawful for any person to:

4 (1) Knowingly present or cause to be presented any false or
5 fraudulent claim for the payment of benefits pursuant to a
6 workers' compensation claim;

7 (2) Knowingly present multiple claims for the same
8 occurrence with intent to defraud;

9 (3) Purposefully prepare, make or subscribe to any writing
10 with intent to present or use the same, or to allow it to be
11 presented in support of any false or fraudulent claim;

12 (4) Knowingly assist, abet, solicit or conspire with:

13 (a) Any person who knowingly presents any false or
14 fraudulent claim for the payment of benefits;

15 (b) Any person who knowingly presents multiple claims for
16 the same occurrence with an intent to defraud; or

17 (c) Any person who purposefully prepares, makes or
18 subscribes to any writing with the intent to present or use the
19 same, or to allow it to be presented in support of any such
20 claim;

21 (5) Knowingly make or cause to be made any false or
22 fraudulent claim for payment of a health care benefit;

23 (6) Knowingly submit a claim for a health care benefit
24 which was not used by, or on behalf of, the claimant;

25 (7) Knowingly present multiple claims for payment of the
26 same health care benefit with an intent to defraud;

27 (8) Knowingly make or cause to be made any false or
28 fraudulent material statement or material representation for the

1 purpose of obtaining or denying any benefit;

2 (9) Knowingly make or cause to be made any false or
3 fraudulent statements with regard to entitlement to benefits with
4 the intent to discourage an injured worker from making a
5 legitimate claim.

6 For the purposes of subdivisions (8) and (9) of this subsection,
7 the term "statement" includes any notice, proof of injury, bill
8 for services, payment for services, hospital or doctor records, X
9 ray or test results.

10 (10) Knowingly answer untruthfully regarding previous
11 injuries, disabilities, or other medical conditions provided the
12 inquiry about previous medical conditions is on a written form
13 that contains a notice advising the employee that his or her
14 willful failure to answer truthfully shall result in the
15 forfeiture or reduction of benefits or possible prosecution.
16 Nothing in this chapter shall prohibit an employer from inquiring
17 about previous injuries, disabilities, or other medical
18 conditions;

19 (11) Knowingly organize, plan, or in any way participate in
20 staged workplace accidents. Any person who violates the
21 provisions of this subsection shall be guilty of a class D
22 felony.

23 2. It shall be unlawful for any insurance company or
24 self-insurer in this state to:

25 (1) Intentionally refuse to comply with known and legally
26 indisputable compensation obligations;

27 (2) Discharge or administer compensation obligations in a

1 dishonest manner; and

2 (3) Discharge or administer compensation obligations in
3 such a manner as to cause injury to the public or those persons
4 dealing with the employer or insurer.

5 3. Any person violating any of the provisions of
6 subsections 1 and 2 of this section or section 287.129, shall be
7 guilty of a class A misdemeanor and, in addition, shall be liable
8 to the state of Missouri for a fine not to exceed ten thousand
9 dollars or double the value of the fraud whichever is greater.
10 Any person who has previously pled guilty to or has been found
11 guilty of violating any of the provisions of subsections 1 and 2
12 of this section or the provisions of section 287.129 and who
13 subsequently violates any of the provisions of subsections 1 and
14 2 of this section or the provisions of section 287.129 shall be
15 guilty of a class D felony.

16 4. Any person who knowingly misrepresents any fact in order
17 to obtain workers' compensation insurance at less than the proper
18 rate for that insurance shall be guilty of a class A misdemeanor.
19 Any person who has previously pled guilty to or has been found
20 guilty of violating any of the provisions of this section or the
21 provisions of section 287.129 and who subsequently violates any
22 of the provisions of this section or the provisions of section
23 287.129 shall be guilty of a class D felony.

24 5. Any employer failing to insure his liability pursuant to
25 this chapter shall be guilty of a class A misdemeanor and, in
26 addition, shall be liable to the state of Missouri for a penalty
27 in an amount equal to twice the annual premium the employer would
28 have paid had such employer been insured or twenty-five thousand

1 dollars, whichever amount is greater. Any person who has
2 previously pled guilty to or has been found guilty of violating
3 any of the provisions of this section or the provisions of
4 section 287.129 and who subsequently violates any of the
5 provisions of this section or the provisions of section 287.129
6 shall be guilty of a class D felony.

7 6. (1) Any person may file a complaint alleging fraud or
8 noncompliance with this chapter with a legal advisor in the
9 division of workers' compensation. In the absence of fraud or
10 bad faith, a person is not subject to civil liability for libel,
11 slander, or any other relevant tort by virtue of filing reports,
12 without malice, or furnishing other information, without malice,
13 required by this section or required by the division, and no
14 civil cause of action of any nature shall arise against such
15 person for any of the following:

16 (a) Information relating to suspected fraudulent acts
17 furnished to or received from law enforcement officials, their
18 agents, or employees;

19 (b) Information relating to suspected fraudulent acts
20 furnished to or received from other persons subject to the
21 provisions of this chapter; or

22 (c) Such information relating to suspected fraudulent acts
23 furnished in reports to the bureau, or the National Association
24 of Insurance Commissioners.

25 (2) The legal advisor shall refer the complaint to the
26 fraud and noncompliance unit within the division. The unit shall
27 investigate all complaints and present any finding of fraud or
28 noncompliance to the director, who may refer the file to the

1 attorney general. The attorney general may prosecute any fraud
2 or noncompliance associated with this chapter. All costs
3 incurred by the attorney general associated with any
4 investigation and prosecution pursuant to this subsection shall
5 be paid out of the workers' compensation fund. Any fines or
6 penalties levied and received as a result of any prosecution
7 under this section shall be paid to the workers' compensation
8 fund. Any restitution ordered as a part of the judgment shall be
9 paid to the person or persons who were defrauded.

10 7. There is hereby established in the division of workers'
11 compensation a fraud and noncompliance administrative unit
12 responsible for investigating incidences of fraud and failure to
13 comply with the provisions of this chapter.

14 287.131. Claims for legal services for workers'
15 compensation benefits filed on or after August 28, 2004, shall
16 not exceed twenty five percent of the amount in dispute to the
17 employee exclusive of medical and rehabilitation services.

18 287.140. 1. In addition to all other compensation, the
19 employee shall receive and the employer shall provide such
20 medical, surgical, chiropractic, and hospital treatment,
21 including nursing, custodial, ambulance and medicines, as may
22 reasonably be required after the injury or disability, to cure
23 and relieve from the effects of the injury. If the employee
24 desires, he shall have the right to select his own physician,
25 surgeon, or other such requirement at his own expense. Where the
26 requirements are furnished by a public hospital or other
27 institution, payment therefor shall be made to the proper
28 authorities. Regardless of whether the health care provider is

1 selected by the employer or is selected by the employee at the
2 employee's expense, the health care provider shall have the
3 affirmative duty to communicate fully with the employee regarding
4 the nature of the employee's injury and recommended treatment
5 exclusive of any evaluation for a permanent disability rating.
6 Failure to perform such duty to communicate shall constitute a
7 disciplinary violation by the provider subject to the provisions
8 of chapter 620, RSMo. When an employee is required to submit to
9 medical examinations or necessary medical treatment at a place
10 outside of the local or metropolitan area from the place of
11 injury or the place of his residence, the employer or its insurer
12 shall advance or reimburse the employee for all necessary and
13 reasonable expenses; except that an injured employee who resides
14 outside the state of Missouri and who is employed by an employer
15 located in Missouri shall have the option of selecting the
16 location of services provided in this section either at a
17 location within one hundred miles of the injured employee's
18 residence, place of injury or place of hire by the employer. The
19 choice of provider within the location selected shall continue to
20 be made by the employer. In case of a medical examination if a
21 dispute arises as to what expenses shall be paid by the employer,
22 the matter shall be presented to the legal advisor, the
23 administrative law judge or the commission, who shall set the sum
24 to be paid and same shall be paid by the employer prior to the
25 medical examination. In no event, however, shall the employer or
26 its insurer be required to pay transportation costs for a greater
27 distance than two hundred fifty miles each way from place of
28 treatment. In addition to all other payments authorized or

1 mandated under this subsection, when an employee who has returned
2 to full-time employment is required to submit to a medical
3 examination for the purpose of evaluating permanent disability,
4 or to undergo physical rehabilitation, the employer or its
5 insurer shall pay a proportionate weekly compensation benefit
6 based on the provisions of section 287.180 for such wages that
7 are lost due to time spent undergoing such medical examinations
8 or physical rehabilitation, except that where the employee is
9 undergoing physical rehabilitation, such proportionate weekly
10 compensation benefit payment shall be limited to a time period of
11 no more than twenty weeks. For purposes of this subsection only,
12 "physical rehabilitation" shall mean the restoration of the
13 seriously injured person as soon as possible and as nearly as
14 possible to a condition of self-support and maintenance as an
15 able-bodied worker. Determination as to what care and
16 restoration constitutes physical rehabilitation shall be the sole
17 province of the treating physician. Should the employer or its
18 insurer contest the determination of the treating physician, then
19 the director shall review the case at question and issue his
20 determination. Such determination by the director shall be
21 appealable like any other finding of the director or the
22 division. Serious injury includes, but is not limited to,
23 quadriplegia, paraplegia, amputations of hand, arm, foot or leg,
24 atrophy due to nerve injury or nonuse, and back injuries not
25 amenable alone to recognized medical and surgical procedures.

26 2. If it be shown to the division or the commission that
27 the requirements are being furnished in such manner that there is
28 reasonable ground for believing that the life, health, or

1 recovery of the employee is endangered thereby, the division or
2 the commission may order a change in the physician, surgeon,
3 hospital or other requirement.

4 3. All fees and charges under this chapter shall be fair
5 and reasonable, shall be subject to regulation by the division or
6 the commission, or the board of rehabilitation in rehabilitation
7 cases. A health care provider shall not charge a fee for
8 treatment and care which is governed by the provisions of this
9 chapter greater than the usual and customary fee the provider
10 receives for the same treatment or service when the payor for
11 such treatment or service is a private individual or a private
12 health insurance carrier. The division or the commission, or the
13 board of rehabilitation in rehabilitation cases, shall also have
14 jurisdiction to hear and determine all disputes as to such
15 charges. A health care provider is bound by the determination
16 upon the reasonableness of health care bills.

17 4. The division shall, by regulation, establish methods to
18 resolve disputes concerning the reasonableness of medical
19 charges, services, or aids. This regulation shall govern
20 resolution of disputes between employers and medical providers
21 over fees charged, whether or not paid, and shall be in lieu of
22 any other administrative procedure under this chapter. The
23 employee shall not be a party to a dispute over medical charges,
24 nor shall the employee's recovery in any way be jeopardized
25 because of such dispute.

26 5. No compensation shall be payable for the death or
27 disability of an employee, if and insofar as the death or
28 disability may be caused, continued or aggravated by any

1 unreasonable refusal to submit to any medical or surgical
2 treatment or operation, the risk of which is, in the opinion of
3 the division or the commission, inconsiderable in view of the
4 seriousness of the injury. If the employee dies as a result of
5 an operation made necessary by the injury, the death shall be
6 deemed to be caused by the injury.

7 6. The testimony of any physician or chiropractic physician
8 who treated the employee shall be admissible in evidence in any
9 proceedings for compensation under this chapter, subject to all
10 of the provisions of section 287.210.

11 7. Every hospital or other person furnishing the employee
12 with medical aid shall permit its record to be copied by and
13 shall furnish full information to the division or the commission,
14 the employer, the employee or his dependents and any other party
15 to any proceedings for compensation under this chapter, and
16 certified copies of the records shall be admissible in evidence
17 in any such proceedings. An employee who reports an injury or
18 illness alleged to be work-related waives any physician-patient
19 privilege with respect to any condition or complaint reasonably
20 related to the condition for which the employee claim
21 compensation. If medical records, reports, and information of an
22 injured employee are sought from health care providers who are
23 not subject to the jurisdiction of the state, the injured
24 employee shall sign an authorization allowing for the employer or
25 carrier to obtain the medical records, reports, or information.

26 8. The employer may be required by the division or the
27 commission to furnish an injured employee with artificial legs,
28 arms, hands, surgical orthopedic joints, or eyes, or braces, as

1 needed, for life whenever the division or the commission shall
2 find that the injured employee may be partially or wholly
3 relieved of the effects of a permanent injury by the use thereof.
4 The director of the division shall establish a procedure whereby
5 a claim for compensation may be reactivated after settlement of
6 such claim is completed. The claim shall be reactivated only
7 after the claimant can show good cause for the reactivation of
8 this claim and the claim shall be made only for the payment of
9 medical procedures involving life-threatening surgical procedures
10 or if the claimant requires the use of a new, or the
11 modification, alteration or exchange of an existing, prosthetic
12 device. For the purpose of this subsection, "life threatening"
13 shall mean a situation or condition which, if not treated
14 immediately, will likely result in the death of the injured
15 worker.

16 9. Nothing in this chapter shall prevent an employee being
17 provided treatment for his injuries by prayer or spiritual means
18 if the employer does not object to the treatment.

19 10. The employer shall have the right to select the
20 licensed treating physician, surgeon, chiropractic physician, or
21 other health care provider; provided, however, that such
22 physicians, surgeons or other health care providers shall offer
23 only those services authorized within the scope of their
24 licenses. For the purpose of this subsection, subsection 2 of
25 section 287.030 shall not apply.

26 11. Any physician or other health care provider who orders,
27 directs or refers a patient for treatment, testing, therapy or
28 rehabilitation at any institution or facility shall, at or prior

1 to the time of the referral, disclose in writing if such health
2 care provider, any of his partners or his employer has a
3 financial interest in the institution or facility to which the
4 patient is being referred, to the following:

5 (1) The patient;

6 (2) The employer of the patient with workers' compensation
7 liability for the injury or disease being treated;

8 (3) The workers' compensation insurer of such employer; and

9 (4) The workers' compensation adjusting company for such
10 insurer.

11 12. Violation of subsection 11 of this section is a class A
12 misdemeanor.

13 13. (1) No hospital, physician or other health care
14 provider, other than a hospital, physician or health care
15 provider selected by the employee at his own expense pursuant to
16 subsection 1 of this section, shall bill or attempt to collect
17 any fee or any portion of a fee for services rendered to an
18 employee due to a work-related injury or report to any credit
19 reporting agency any failure of the employee to make such
20 payment, when an injury covered by this chapter has occurred and
21 such hospital, physician or health care provider has received
22 actual notice given in writing by the employee, the employer or
23 the employer's insurer. Actual notice shall be deemed received
24 by the hospital, physician or health care provider five days
25 after mailing by certified mail by the employer or insurer to the
26 hospital, physician or health care provider.

27 (2) The notice shall include:

28 (a) The name of the employer;

1 (b) The name of the insurer, if known;
2 (c) The name of the employee receiving the services;
3 (d) The general nature of the injury, if known; and
4 (e) Where a claim has been filed, the claim number, if
5 known.

6 (3) When an injury is found to be noncompensable under this
7 chapter, the hospital, physician or other health care provider
8 shall be entitled to pursue the employee for any unpaid portion
9 of the fee or other charges for authorized services provided to
10 the employee. Any applicable statute of limitations for an
11 action for such fees or other charges shall be tolled from the
12 time notice is given to the division by a hospital, physician or
13 other health care provider pursuant to subdivision (6) of this
14 subsection, until a determination of noncompensability in regard
15 to the injury which is the basis of such services is made, or in
16 the event there is an appeal to the labor and industrial
17 relations commission, until a decision is rendered by that
18 commission.

19 (4) If a hospital, physician or other health care provider
20 or a debt collector on behalf of such hospital, physician or
21 other health care provider pursues any action to collect from an
22 employee after such notice is properly given, the employee shall
23 have a cause of action against the hospital, physician or other
24 health care provider for actual damages sustained plus up to one
25 thousand dollars in additional damages, costs and reasonable
26 attorney's fees.

27 (5) If an employer or insurer fails to make payment for
28 authorized services provided to the employee by a hospital,

1 physician or other health care provider pursuant to this chapter,
2 the hospital, physician or other health care provider may proceed
3 pursuant to subsection 4 of this section with a dispute against
4 the employer or insurer for any fees or other charges for
5 services provided.

6 (6) A hospital, physician or other health care provider
7 whose services have been authorized in advance by the employer or
8 insurer may give notice to the division of any claim for fees or
9 other charges for services provided for a work-related injury
10 that is covered by this chapter, with copies of the notice to the
11 employee, employer and the employer's insurer. Where such notice
12 has been filed, the administrative law judge may order direct
13 payment from the proceeds of any settlement or award to the
14 hospital, physician or other health care provider for such fees
15 as are determined by the division. The notice shall be on a form
16 prescribed by the division.

17 287.225. If an employer shall voluntarily pay unearned
18 wages to an employee in addition to an excess of any amount of
19 disability benefits to which the employee is entitled under this
20 chapter, the excess amount paid shall be allowed as a credit to
21 the employer in any final lump-sum settlement, or may be withheld
22 from the employee's wages in weekly amounts the same as the
23 weekly amount or amounts paid in excess of compensation due, but
24 not until and unless the employee's average gross weekly wage for
25 the calendar year exceeds one hundred twenty-five percent of the
26 state's average weekly wage.

27 287.240. If the injury causes death, either with or without
28 disability, the compensation therefor shall be as provided in

1 this section:

2 (1) In all cases the employer shall pay direct to the
3 persons furnishing the same the reasonable expense of the burial
4 of the deceased employee not exceeding [five] seven thousand five
5 hundred dollars. But no person shall be entitled to compensation
6 for the burial expenses of a deceased employee unless he has
7 furnished the same by authority of the widow or widower, the
8 nearest relative of the deceased employee in the county of his
9 death, his personal representative, or the employer, who shall
10 have the right to give the authority in the order named. All
11 fees and charges under this section shall be fair and reasonable,
12 shall be subject to regulation by the division or the commission
13 and shall be limited to such as are fair and reasonable for
14 similar service to persons of a like standard of living. The
15 division or the commission shall also have jurisdiction to hear
16 and determine all disputes as to the charges. If the deceased
17 employee leaves no dependents, the death benefit in this
18 subdivision provided shall be the limit of the liability of the
19 employer under this chapter on account of the death, except as
20 herein provided for burial expenses and except as provided in
21 section 287.140; provided that in all cases when the employer
22 admits or does not deny liability for the burial expense, it
23 shall be paid within thirty days after written notice, that the
24 service has been rendered, has been delivered to the employer.
25 The notice may be sent by registered mail, return receipt
26 requested, or may be made by personal delivery;

27 (2) The employer shall also pay to the total dependents of
28 the employee a death benefit based on the employee's average

1 weekly earnings during the year immediately preceding the injury
2 that results in the death of the employee, as provided in section
3 287.250. The amount of compensation for death, which shall be
4 paid in installments in the same manner that compensation is
5 required to be paid under this chapter, shall be computed as
6 follows:

7 (a) If the injury which caused the death occurred on or
8 after September 28, 1983, but before September 28, 1986, the
9 weekly compensation shall be an amount equal to sixty-six and
10 two-thirds percent of the employee's average weekly earnings
11 during the year immediately preceding the injury; provided that
12 the weekly compensation paid under this paragraph shall not
13 exceed an amount equal to seventy percent of the state average
14 weekly wage, as such wage is determined by the division of
15 employment security, as of the July first immediately preceding
16 the date of injury. If there is a total dependent, no death
17 benefits shall be payable to partial dependents or any other
18 persons except as provided in subdivision (1) of this section;

19 (b) If the injury which caused the death occurred on or
20 after September 28, 1986, but before August 28, 1990, the weekly
21 compensation shall be an amount equal to sixty-six and two-thirds
22 percent of the employee's average weekly earnings during the year
23 immediately preceding the injury; provided that the weekly
24 compensation paid under this paragraph shall not exceed an amount
25 equal to seventy-five percent of the state average weekly wage,
26 as such wage is determined by the division of employment
27 security, as of the July first immediately preceding the date of
28 injury. If there is a total dependent, no death benefit shall be

1 payable to partial dependents or any other persons except as
2 provided in subdivision (1) of this section;

3 (c) If the injury which caused the death occurred on or
4 after August 28, 1990, but before August 28, 1991, the weekly
5 compensation shall be an amount equal to sixty-six and two-
6 thirds percent of the injured employee's average weekly earnings
7 as of the date of the injury; provided that the weekly
8 compensation paid under this paragraph shall not exceed an amount
9 equal to one hundred percent of the state average weekly wage;

10 (d) If the injury which caused the death occurred on or
11 after August 28, 1991, the weekly compensation shall be an amount
12 equal to sixty-six and two-thirds percent of the injured
13 employee's average weekly earnings as of the date of the injury;
14 provided that the weekly compensation paid under this paragraph
15 shall not exceed an amount equal to one hundred five percent of
16 the state average weekly wage;

17 (e) If the injury which caused the death occurred on or
18 after September 28, 1981, the weekly compensation shall in no
19 event be less than forty dollars per week;

20 (3) If there are partial dependents, and no total
21 dependents, a part of the death benefit herein provided in the
22 case of total dependents, determined by the proportion of his
23 contributions to all partial dependents by the employee at the
24 time of the injury, shall be paid by the employer to each of the
25 dependents proportionately;

26 (4) The word "dependent" as used in this chapter shall be
27 construed to mean a relative by blood or marriage of a deceased
28 employee, who is actually dependent for support, in whole or in

1 part, upon his or her wages at the time of the injury. The
2 following persons shall be conclusively presumed to be totally
3 dependent for support upon a deceased employee, and any death
4 benefit shall be payable to them to the exclusion of other total
5 dependents:

6 (a) A wife upon a husband with whom she lives or who is
7 legally liable for her support, and a husband upon a wife with
8 whom he lives or who is legally liable for his support; provided
9 that on the death or remarriage of a widow or widower, the death
10 benefit shall cease unless there be other total dependents
11 entitled to any death benefits under this chapter. In the event
12 of remarriage, a lump sum payment equal in amount to the benefits
13 due for a period of two years shall be paid to the widow or
14 widower. Thereupon the periodic death benefits shall cease
15 unless there are other total dependents entitled to any death
16 benefit under this chapter, in which event the periodic benefits
17 to which such widow or widower would have been entitled had he or
18 she not died or remarried shall be divided among such other total
19 dependents and paid to them during their period of entitlement
20 under this chapter;

21 (b) A natural, posthumous, or adopted child or children,
22 whether legitimate or illegitimate, under the age of eighteen
23 years, or over that age if physically or mentally incapacitated
24 from wage earning, upon the parent legally liable for the support
25 or with whom he, she, or they are living at the time of the death
26 of the parent. In case there is a wife or a husband mentally or
27 physically incapacitated from wage earning, dependent upon a wife
28 or husband, and a child or more than one child thus dependent,

1 the death benefit shall be divided among them in such proportion
2 as may be determined by the commission after considering their
3 ages and other facts bearing on the dependency. In all other
4 cases questions of total or partial dependency shall be
5 determined in accordance with the facts at the time of the
6 injury, and in such other cases if there is more than one person
7 wholly dependent the death benefit shall be divided equally among
8 them. The payment of death benefits to a child or other
9 dependent as provided in this paragraph shall cease when the
10 dependent dies, attains the age of eighteen years, or becomes
11 physically and mentally capable of wage earning over that age, or
12 until twenty-two years of age if the child of the deceased is in
13 attendance and remains as a full-time student in any accredited
14 educational institution, or if at eighteen years of age the
15 dependent child is a member of the armed forces of the United
16 States on active duty; provided, however, that such dependent
17 child shall be entitled to compensation during four years of
18 full-time attendance at a fully accredited educational
19 institution to commence prior to twenty-three years of age and
20 immediately upon cessation of his active duty in the armed
21 forces, unless there are other total dependents entitled to the
22 death benefit under this chapter;

23 (5) The division or the commission may, in its discretion,
24 order or award the share of compensation of any such child to be
25 paid to the parent, grandparent, or other adult next of kin or
26 conservator of the child for the latter's support, maintenance
27 and education, which order or award upon notice to the parties
28 may be modified from time to time by the commission in its

1 discretion with respect to the person to whom shall be paid the
2 amount of the order or award remaining unpaid at the time of the
3 modification;

4 (6) The payments of compensation by the employer in
5 accordance with the order or award of the division or the
6 commission shall discharge the employer from all further
7 obligations as to the compensation;

8 (7) All death benefits in this chapter shall be paid in
9 installments in the same manner as provided for disability
10 compensation;

11 (8) Every employer shall keep a record of the correct names
12 and addresses of the dependents of each of his employees, and
13 upon the death of an employee by accident arising out of and in
14 the course of his employment shall so far as possible immediately
15 furnish the division with such names and addresses;

16 (9) Dependents receiving death benefits under the
17 provisions of this chapter shall annually report to the division
18 as to marital status in the case of a widow or widower or age and
19 physical or mental condition of a dependent child. The division
20 shall provide forms for the making of such reports.

21 287.390. 1. [Nothing in this chapter shall be construed as
22 preventing the] Parties to claims [hereunder from entering] under
23 this chapter may enter into voluntary agreements in settlement
24 thereof, but no agreement by an employee or his or her dependents
25 to waive his or her rights under this chapter shall be valid, nor
26 shall any agreement of settlement or compromise of any dispute or
27 claim for compensation under this chapter be valid until approved
28 by an administrative law judge or the commission, nor shall an

1 administrative law judge or the commission approve any settlement
2 which is not in accordance with the rights of the parties as
3 given in this chapter.

4 (1) No such agreement shall be valid unless made after
5 seven days from the date of the injury or death.

6 (2) An administrative law judge, associate administrative
7 law judge, legal advisor, or the labor and industrial relations
8 commission shall approve a settlement agreement as valid and
9 enforceable as long as:

10 (a) The employee has consulted with a legal advisor;

11 (b) The settlement is not the result of undue influence or
12 fraud;

13 (c) The employee understands his or her rights and
14 benefits; and

15 (d) The employee voluntarily agrees to accept the terms of
16 the agreement.

17 2. A compromise settlement approved by an administrative
18 law judge or the commission during the employee's lifetime shall
19 extinguish and bar all claims for compensation for the employee's
20 death if the settlement compromises a dispute on any question or
21 issue other than the extent of disability or the rate of
22 compensation.

23 3. Notwithstanding the provisions of section 287.190, an
24 employee shall be afforded the option of receiving a compromise
25 settlement as a one-time lump sum payment. A compromise
26 settlement approved by an administrative law judge or the
27 commission shall indicate the manner of payment chosen by the
28 employee.

1 4. A minor dependent, by parent or conservator, may
2 compromise disputes and may enter into a compromise settlement
3 agreement, and upon approval by an administrative law judge or
4 the commission the settlement agreement shall have the same force
5 and effect as though the minor had been an adult. The payment of
6 compensation by the employer in accordance with the settlement
7 agreement shall discharge the employer from all further
8 obligation.

9 287.510. In any case a temporary or partial award of
10 compensation may be made, and the same may be modified from time
11 to time to meet the needs of the case, and the same may be kept
12 open until a final award can be made, and if the same be not
13 complied with, the amount [thereof] equal to the value of
14 compensation ordered and unpaid may be doubled in the final
15 award, if the final award shall be in accordance with the
16 temporary or partial award.

17 287.560. The division, any administrative law judge thereof
18 or the commission, shall have power to issue process, subpoena
19 witnesses, administer oaths, examine books and papers, and
20 require the production thereof, and to cause the deposition of
21 any witness to be taken and the costs thereof paid as other costs
22 under this chapter. Any party shall be entitled to process to
23 compel the attendance of witnesses and the production of books
24 and papers, and at his own cost to take and use depositions in
25 like manner as in civil cases in the circuit court, except that
26 depositions may be recorded by electronic means. The party
27 electing to record a deposition by electronic means shall be
28 responsible for the preparation and proper certification of the

1 transcript and for maintaining a copy of the tape or other medium
2 on which the deposition was recorded for the use of the division
3 or any party upon request. Copies of the transcript shall be
4 provided to all parties at a cost approved by the division.

5 Subpoena shall extend to all parts of the state, and may be
6 served as in civil actions in the circuit court, but the costs of
7 the service shall be as in other civil actions. Each witness
8 shall receive the fees and mileage prescribed by law in civil
9 cases, but the same shall not be allowed as costs to the party in
10 whose behalf the witness was summoned unless the persons before
11 whom the hearing is had shall certify that the testimony of the
12 witness was necessary. All costs under this section shall be
13 approved by the division and paid out of the state treasury from
14 the fund for the support of the Missouri division of workers'
15 compensation; provided, however, that if the division or the
16 commission determines that any proceedings have been brought,
17 prosecuted or defended without reasonable ground, it may assess
18 the whole cost of the proceedings upon the party who so brought,
19 prosecuted or defended them. If the commission is making such
20 assessment against an employer, the division or commission shall
21 exclude those claims for costs of proceedings when the employer
22 provides evidence that at some point the employer had commenced
23 providing benefits but had subsequently sought to challenge the
24 claim, unless such challenge is proved to be of a willful,
25 egregious, and abusive nature. The division or the commission
26 may permit a claimant to prosecute a claim as a poor person as
27 provided by law in civil cases.

28 287.610. 1. (1) Before January 1, 2005, the division may

1 appoint such number of administrative law judges as it may find
2 necessary, but not exceeding twenty-five in number beginning
3 January 1, 1999, with one additional appointment authorized as of
4 July 1, 2000, and one additional appointment authorized in each
5 succeeding year thereafter until and including the year 2004, for
6 a maximum of thirty authorized administrative law judges.

7 (2) Beginning January 1, 2005, the terms of the
8 administrative law judges holding office as of January 1, 2005
9 shall expire, and the governor may with the advice and consent of
10 the senate appoint such number of administrative law judges as
11 the governor may find necessary, but not exceeding twenty-five in
12 number. Of the initial administrative law judges appointed by
13 the governor under this section, six shall hold office for four
14 years, six shall hold office for three years, six shall hold
15 office for two years, and seven shall be appointed for one year.
16 Administrative law judges appointed after expiration of the
17 initial appointment by the governor shall be appointed to a four-
18 year term by the governor with the advice and consent of the
19 senate, with the initially appointed administrative law judges to
20 remain in office until a successor is appointed, and shall take
21 office upon being appointed. Each administrative law judge may
22 be reappointed. Vacancies shall be filled in the same manner in
23 which the administrative law judge vacating the office was
24 originally appointed.

25 (3) Appropriations for any additional appointment shall be
26 based upon necessity, measured by the requirements and needs of
27 each division office. Administrative law judges shall be duly
28 licensed lawyers under the laws of this state. Administrative

1 law judges shall not practice law or do law business and shall
2 devote their whole time to the duties of their office. Any
3 administrative law judge may be discharged or removed only by the
4 governor pursuant to an evaluation and recommendation by the
5 administrative law judge review committee, hereinafter referred
6 to as "the committee", of the judge's conduct, performance and
7 productivity.

8 2. The division shall require and perform annual
9 evaluations of an administrative law judge, associate
10 administrative law judge and legal advisor's conduct, performance
11 and productivity based upon written standards established by
12 rule. The division, by rule, shall establish the written
13 standards on or before January 1, 1999.

14 (1) After an evaluation by the division, any administrative
15 law judge, associate administrative law judge or legal advisor
16 who has received an unsatisfactory evaluation in any of the three
17 categories of conduct, performance or productivity, may appeal
18 the evaluation to the committee.

19 (2) The division director shall refer an unsatisfactory
20 evaluation of any administrative law judge, associate
21 administrative law judge or legal advisor to the committee.

22 (3) When a written, signed complaint is made against an
23 administrative law judge, associate administrative law judge or
24 legal advisor, it shall be referred to the director of the
25 division for a determination of merit. When the director finds
26 the complaint has merit, it shall be referred to the committee
27 for investigation and review.

28 3. The administrative law judge review committee shall be

1 composed of one administrative law judge, who shall act as a peer
2 judge on the committee and shall be domiciled in a division
3 office other than that of the judge being reviewed, one employee
4 representative and one employer representative, neither of whom
5 shall have any direct or indirect employment or financial
6 connection with a workers' compensation insurance company, claims
7 adjustment company, health care provider nor be a practicing
8 workers' compensation attorney. The employee representative and
9 employer representative shall have a working knowledge of
10 workers' compensation. The employee and employer representative
11 shall serve for four-year staggered terms and they shall be
12 appointed by the governor. The initial employee representative
13 shall be appointed for a two-year term. The administrative law
14 judge who acts as a peer judge shall be appointed by the chairman
15 of the labor and industrial relations commission and shall not
16 serve on any two consecutive reviews conducted by the committee.
17 Chairmanship of the committee shall rotate between the employee
18 representative and the employer representative every other year.
19 Staffing for the administrative review committee shall be
20 provided, as needed, by the director of the department of labor
21 and industrial relations and shall be funded from the workers'
22 compensation fund. The committee shall conduct a hearing as part
23 of any review of a referral or appeal made according to
24 subsection 2 of this section.

25 4. The committee shall determine within thirty days whether
26 an investigation shall be conducted for a referral made pursuant
27 to subdivision (3) of subsection 2 of this section. The
28 committee shall make a final referral to the governor pursuant to

1 subsection 1 of this section within two hundred seventy days of
2 the receipt of a referral or appeal.

3 5. The administrative law judges appointed by the division
4 shall only have jurisdiction to hear and determine claims upon
5 original hearing and shall have no jurisdiction upon any review
6 hearing, either in the way of an appeal from an original hearing
7 or by way of reopening any prior award, except to correct a
8 clerical error in an award or settlement if the correction is
9 made by the administrative law judge within twenty days of the
10 original award or settlement. The labor and industrial relations
11 commission may remand any decision of an administrative law judge
12 for a more complete finding of facts. The commission may also
13 correct a clerical error in awards or settlements within thirty
14 days of its final award. With respect to original hearings, the
15 administrative law judges shall have such jurisdiction and powers
16 as are vested in the division of workers' compensation under
17 other sections of this chapter, and wherever in this chapter the
18 word "commission", "commissioners" or "division" is used in
19 respect to any original hearing, those terms shall mean the
20 administrative law judges appointed under this section. When a
21 hearing is necessary upon any claim, the division shall assign an
22 administrative law judge to such hearing. Any administrative law
23 judge shall have power to approve contracts of settlement, as
24 provided by section 287.390, between the parties to any
25 compensation claim or dispute under this chapter pending before
26 the division of workers' compensation. Any award by an
27 administrative law judge upon an original hearing shall have the
28 same force and effect, shall be enforceable in the same manner as

1 provided elsewhere in this chapter for awards by the labor and
2 industrial relations commission, and shall be subject to review
3 as provided by section 287.480.

4 6. Any of the administrative law judges employed pursuant
5 to this section may be assigned on a temporary basis to the
6 branch offices as necessary in order to ensure the proper
7 administration of this chapter.

8 7. All administrative law judges and legal advisors shall
9 be required to participate in, on a continuing basis, specific
10 training that shall pertain to those elements of knowledge and
11 procedure necessary for the efficient and competent performance
12 of the administrative law judges' and legal advisors' required
13 duties and responsibilities. Such training requirements shall be
14 established by the division subject to appropriations and shall
15 include training in medical determinations and records, mediation
16 and legal issues pertaining to workers' compensation
17 adjudication. Such training may be credited toward any
18 continuing legal education requirements.

19 8. No rule or portion of a rule promulgated pursuant to the
20 authority of this section shall become effective unless it has
21 been promulgated pursuant to the provisions of chapter 536, RSMo.

22 9. No administrative law judge shall establish, maintain,
23 or contribute to a committee that is regulated by campaign
24 finance disclosure law in chapter 130, RSMo.

25 287.800. All of the provisions of this chapter shall be
26 [liberally] impartially construed with a view to the public
27 welfare[, and a substantial compliance therewith shall be
28 sufficient to give effect to rules, regulations, requirements,

1 awards, orders or decisions of the division and the commission,
2 and they shall not be declared inoperative, illegal or void for
3 any omission of a technical nature in respect thereto]. The
4 labor and industrial relations commission and all officials
5 within the division of workers' compensation shall apply an
6 impartial standard of review when weighing evidence and resolving
7 factual conflicts.

8 287.803. 1. An employee may elect to reject the provisions
9 of this chapter because such employee is a member of a religious
10 sect that is adherent of established tenets or teaching whereby
11 members are conscientiously opposed to the acceptance of the
12 benefits of any public or private insurance which makes payments
13 toward the costs of, or provided services for medical bills
14 including benefits of any insurance system established by the
15 Federal Social Security Act, 42 U.S.C. 301 et. seq. The employee
16 shall submit a written waiver of all benefits pursuant to this
17 chapter and an affidavit that he or she has been a member of said
18 religious sect for at least eighteen years attesting to the
19 rejection of the benefits of public or private insurance.

20 2. The waiver and affidavit required by subsection 1 of
21 this section shall be made upon a form to be provided by the
22 division of workers' compensation, and said waiver shall include
23 a statement agreeing to a prohibition of future civil action
24 relating to an injury arising during said employment.

25 3. An exception granted in regards to a specific employee
26 shall continue to be valid until such employee rescinds the prior
27 rejection of coverage or the employee or sect ceases to meet the
28 requirements of subsection 1 of this section.

1 4. Any rescission shall be prospective in nature and shall
2 entitle the employee only to such benefits that accrue on or
3 after the date the rescission form is received by the insurance
4 company.

5 287.957. 1. The experience rating plan shall contain
6 reasonable eligibility standards, provide adequate incentives for
7 loss prevention, and shall provide for sufficient premium
8 differentials so as to encourage safety. The uniform experience
9 rating plan shall be the exclusive means of providing prospective
10 premium adjustment based upon measurement of the loss-producing
11 characteristics of an individual insured. An insurer may submit
12 a rating plan or plans providing for retrospective premium
13 adjustments based upon an insured's past experience. Such system
14 shall provide for retrospective adjustment of an experience
15 modification and premiums paid pursuant to such experience
16 modification where a prior reserved claim produced an experience
17 modification that varied by greater than fifty percent from the
18 experience modification that would have been established based on
19 the settlement amount of that claim. The rating plan shall
20 prohibit an adjustment to the experience modification of an
21 employer if the total medical cost does not exceed one thousand
22 five hundred dollars and the employer pays all of the total
23 medical costs and there is no lost time from the employment and
24 no claim is filed.

25 2. As used in this section, "no lost time" shall mean no
26 greater than one lost day of a regularly scheduled workday.

27 288.386. 1. The employer or the employer's carrier against
28 whom a claim for benefits under chapter 287, RSMo, has been made,

1 or a representative of either, may request from the division of
2 employment security records of wages of the employee reported to
3 the division by any employer for the quarter that includes the
4 date of the accident that is the subject of such claim and for
5 subsequent quarters. The request shall be made with the
6 authorization or consent of the employee or any employer who paid
7 wages to the employee subsequent to the date of the accident.

8 2. The employer or carrier shall make the request on a form
9 prescribed by rule for such purpose by the division of employment
10 security. Such form shall contain a certification by the
11 requesting party that it is a party entitled to the information
12 requested as authorized by this section.

13 3. The division of employment security shall provide the
14 most current information readily available within fifteen days
15 after receiving the request.

16 288.060. 1. All benefits shall be paid through employment
17 offices in accordance with such regulations as the division may
18 prescribe.

19 2. Each eligible insured worker who is totally unemployed
20 in any week shall be paid for such week a sum equal to his weekly
21 benefit amount.

22 3. Each eligible insured worker who is partially unemployed
23 in any week shall be paid for such week a partial benefit. Such
24 partial benefit shall be an amount equal to the difference
25 between his weekly benefit amount and that part of his wages for
26 such week in excess of twenty dollars, and, if such partial
27 benefit amount is not a multiple of one dollar, such amount shall
28 be reduced to the nearest lower full dollar amount. Termination

1 pay, severance pay or pay received by an eligible insured worker
2 who is a member of the organized militia for training or duty
3 authorized by section 502(a)(1) of Title 32, United States Code[,
4 or who is an elected official] shall not be considered wages for
5 the purpose of this subsection.

6 4. The division shall compute the wage credits for each
7 individual by crediting him with the wages paid to him for
8 insured work during each quarter of his base period or twenty-six
9 times his weekly benefit amount, whichever is the lesser. In
10 addition, if a claimant receives wages in the form of termination
11 pay or severance pay and such payment appears in a base period
12 established by the filing of an initial claim, the claimant may,
13 at his option, choose to have such payment included in the
14 calendar quarter in which it was paid or choose to have it
15 prorated equally among the quarters comprising the base period of
16 the claim. The maximum total amount of benefits payable to any
17 insured worker during any benefit year shall not exceed
18 twenty-six times his weekly benefit amount, or thirty-three and
19 one-third percent of his wage credits, whichever is the lesser.
20 For the purpose of this section, wages shall be counted as wage
21 credits for any benefit year, only if such benefit year begins
22 subsequent to the date on which the employing unit by whom such
23 wages were paid has become an employer. The wage credits of an
24 individual earned during the period commencing with the end of a
25 prior base period and ending on the date on which he filed an
26 allowed initial claim shall not be available for benefit purposes
27 in a subsequent benefit year unless, in addition thereto, such
28 individual has subsequently earned either wages for insured work

1 in an amount equal to at least five times his current weekly
2 benefit amount or wages in an amount equal to at least ten times
3 his current weekly benefit amount.

4 5. In the event that benefits are due a deceased person and
5 no petition has been filed for the probate of the will or for the
6 administration of the estate of such person within thirty days
7 after his death, the division may by regulation provide for the
8 payment of such benefits to such person or persons as the
9 division finds entitled thereto and every such payment shall be a
10 valid payment to the same extent as if made to the legal
11 representatives of the deceased.

12 6. The division is authorized to cancel any benefit warrant
13 remaining outstanding and unpaid one year after the date of its
14 issuance and there shall be no liability for the payment of any
15 such benefit warrant thereafter.

16 7. The division may establish an electronic funds transfer
17 system to transfer directly to claimants' accounts in financial
18 institutions benefits payable to them pursuant to this chapter.
19 To receive benefits by electronic funds transfer, a claimant
20 shall satisfactorily complete a direct deposit application form
21 authorizing the division to deposit benefit payments into a
22 designated checking or savings account. Any electronic funds
23 transfer system created pursuant to this subsection shall be
24 administered in accordance with regulations prescribed by the
25 division.

26 8. The division may issue a benefit warrant covering more
27 than one week of benefits.